

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JUAN A MORENO,

Plaintiff,

VS.

MELTON L KIRSTA, et al.,

Defendants.

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CIVIL ACTION NO. 2:15-CV-108

OPINION AND ORDER OF TRANSFER

This action was initiated by Juan A. Moreno, who is incarcerated at TDCJ-CID's McConnell Unit in Beeville, Texas (D.E. 1). Though the action was filed on a Section 1983 form, it is not clear whether Moreno is challenging the validity of his conviction or whether he is seeking other relief available only in a civil rights lawsuit. Moreno named as Defendants two Bexar County Assistant District Attorneys and Dr. Kellogg, a San Antonio doctor who appears to have served as a witness at Moreno's trial, and for relief, he requests that his conviction be vacated and his name cleared (*Id.* at 3-4).

A civil action wherein jurisdiction is not founded solely on diversity of citizenship may be brought in (1) a judicial district where any defendant resides, if all defendants reside in the same state, or (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred. 28 U.S.C. § 1391(b). The Defendants in this case are located in Bexar County, Texas, and the events giving rise to the lawsuit occurred there. Bexar County is located in the San Antonio Division of the Western

District of Texas. 28 U.S.C. § 124(d)(4). Moreno is incarcerated in the Corpus Christi Division of the Southern District of Texas. 28 U.S.C. § 124(b)(6).

On the other hand, to the extent that Moreno is challenging his conviction, the matter sounds in habeas and may be filed either in the district where petitioner is in custody or in the district in which he was convicted. 28 U.S.C. § 2241(d); Wadsworth v. Johnson, 235 F.3d 959 (5th Cir. 2000).

For the convenience of parties and witnesses, and in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought. 28 U.S.C. § 1404(a). Because all Defendants are located in the San Antonio Division of the Western District of Texas, and the records of Moreno's conviction and all witnesses are located there, it is more convenient and would further the interests of justice for this action to be handled in the San Antonio Division, regardless of whether it is treated as a habeas petition or a civil rights lawsuit.

Accordingly, the Clerk shall transfer this action to the San Antonio Division of the Western District of Texas. All pending motions are denied as moot, subject to being reactivated after the transfer.

SIGNED and ENTERED on 3/5/15.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE